

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK
Civil Action No.:1: 21-CV-08082-LGS

Hao Zhe Wang *pro se*)
vs.)
Skype Communications S.a.r.l., et al.)

Motion to Extend Time to File Notice of Appeal

Plaintiff respectfully petitions the Court for an extension of 30 days and to give him until April 16, 2022, to file the notice of appeal so that he may have additional time to study the rulings in this case and properly identify several issues that he may include in his appeal.

Respectfully,


LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE

Application DENIED. While the Court sympathizes with pro se Plaintiff, "[t]he power of the federal courts to extend the time limits on the invocation of appellate jurisdiction is severely circumscribed." *Alexander v. Saul*, 5 F.4th 139, 152 (2d Cir. 2021) (internal quotation marks omitted). "Under Federal Rule of Appellate Procedure 4(a)(5), a district court 'may extend the time to file a notice of appeal if . . . th[e] party [seeking an extension] shows excusable neglect or good cause.'" *Id.* at 142 (quoting Fed. R. App. P. 4(a)(5)). "The 'good cause' standard applies when the need for an extension arises from factors outside the control of the movant; the 'excusable neglect' standard applies when the need for an extension results from factors within the movant's control." *Id.* Here, Plaintiff has not pointed to any factors outside of his control. Because the requirement to file a timely notice of appeal is "mandatory and jurisdictional" the Second Circuit has "taken a hard line" in applying the test for excusable neglect. *Id.* at 148 (internal quotation marks omitted). The relevant test considers four factors: "[1] the danger of prejudice to the [non-movant], [2] the length of the delay and its potential impact on judicial proceedings, [3] the reason for the delay, including whether it was within the reasonable control of the movant, and [4] whether the movant acted in good faith." *Id.* at 148. As here, in a typical case the first two factors favor the moving party and the fourth factor is not an issue. *Id.* at 149. As to the third factor, Plaintiff does not present any reasons why he cannot study the rulings in this case and identify the issues for his appeal within the thirty days permitted by Congress for filing a notice of appeal. Accordingly, there is no basis for finding excusable neglect.

Dated: March 3, 2022
New York, New York